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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,309	12/30/1999	ANGELA L. CHIU	1999-C	7641

7590 06/30/2005

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/476,309

Applicant(s)

CHIU ET AL.

Examiner

Van Kim T. Nguyen

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-61 and 68-70 is/are rejected.
- 7) ☒ Claim(s) 62-66 and 71-78 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is responsive to communications filed on February 7, 2005.

Claims 1-56 have been cancelled. Claims 57-78 are pending.

### *Claim Rejections - 35 USC § 102*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 57-58 and 68-70 rejected under 35 U.S.C. 102(e) as being anticipated by Elwalid et al (US 6,353,616), hereinafter Elwalid.

Regarding claims 57, 68 and 70, as shown in Figures 1-7, Elwalid discloses a method and system for use in a packet network that carries at least two traffic classes (Fig. 3: first class, second class, and third class), comprising:

selecting individually for each link of a plurality of links of the network a particular desired mix of the average rates of traffic among the traffic classes on that link during times of network congestion, and configuring parameters within the network in such a way that the mix of average traffic rates is substantially achieved (e.g., based on priori traffic statistic, or link utilization, weighted scheduling is defined, col. 5: line 32 – col. 6: line 57, and col. 9: line 31 – col. 10: line 16).

Regarding claims 58 and 69, Elwalid also discloses one of the parameters is bandwidth allocated to at least one the traffic classes (col. 7: lines 10-19, and col. 11: line 50 – col. 12: line 6).

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 59-61 and 70 and rejected under 35 U.S.C. 103(a) as being unpatentable over Elwalid, as applied to claims 1 and 69 above, in view of Mitra et al (US 6,721,270).

Regarding claims 59 and 70, Elwalid discloses substantially all the claimed limitations, except the mix of average traffic rates is selected in such a way as to achieve a desired set of packet loss criteria for the traffic classes on each link.

As shown in Figures 1-5, Mitra teaches selecting the mix of traffic rate in such a way as to achieve a desired set of packet loss criteria for the traffic classes on each link (e.g., loss probability on each link can be calculated and adjusted; col. 10: lines 39-46).

Elwalid and Mitra teach analogous arts, relating to solving traffic engineering problems in a network, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Mitra's method of allocating communication resources in Elwalid's system, motivated by the need of improving traffic quality in a multiservice network.

Regarding claims 60-61, though the combination of Elwalid and Mitra does not explicitly call for a packet loss criteria including a maximum desired or zero packet loss ratio of a first one

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of the traffic classes, but since the packet loss criteria is one of factor can be calculated and adjusted (col. 10: lines 39-46), it would have been obvious to one of the ordinary skill in the art at the time the invention was made the packet loss criteria can be selected to include a maximum desired or zero packet loss ratio of a first one of the traffic classes, motivated by the need to improve traffic quality in a multiservice network.

***Allowable Subject Matter***

6. Claims 62-66 and 71-78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claims are considered allowable when reading the claims none of the references of record, in light of the specification, alone or in combination disclose or suggest the combination limitations specified in the dependent claims including:

during the periods of congestion over each link, the set of packet loss criteria including a desired maximum value of a quantity that is a function of a packet loss ratio of a second one of the traffic classes and a packet loss ratio of a third one of the traffic classes.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

7. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM,

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Van Kim T. Nguyen  
Examiner  
Art Unit 2151

vkn

  
PATRICE WINDER  
PRIMARY EXAMINER